

# EXHIBIT A

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF UTAH

3 CIVIL ACTION NO. 2:20:CV00148-RJS-JCB

4 ~~~~~  
5 BRANDI WESLEY, on behalf of  
6 herself and others similarly  
situated,  
Plaintiff,

7 v.

8 SNAP FINANCE LLC,  
Defendant.

9 ~~~~~  
10 SNAP FINANCE LLC,  
Third-Party Plaintiff,

11 v.

12 DERRICK DEON JACKSON, JR.,  
13 a/k/a DERRICK JOHNSON,  
Third-Party Defendant  
~~~~~

14  
15 EXPERT WITNESS

16 ZOOM DEPOSITION OF

17 MARGARET DALEY

18 FEBRUARY 18, 2021

19 1:06 P.M.  
20  
21  
22

23 Job #32790

24 REPORTER: TRACY COFFMAN

[REDACTED]

[REDACTED]

14 Q. Right, and did Ms. Wesley self-attest to  
15 being a member of all three proposed classes?  
16 A. I believe she has. She said used the phone  
17 exclusively and received the calls and texts.

[REDACTED]

[REDACTED]

[REDACTED]

2 Q. So what you're saying is nobody that's  
3 associated with those 92.6 percent of  
4 telephone numbers could meet any of the three  
5 proposed class definitions?

6 A. That's not what I'm saying. No, I'm not

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

4 Q. I understand that, I just want a clear answer  
5 as to whether or not part of your expert  
6 opinion is whether particular people meet or  
7 do not meet any of the proposed class  
8 definitions?  
9 **A. I've been asked to look at whether or not**  
10 **there is evidence.**  
11 I am not a decider of the legal  
12 opinions. The legal opinions are up to the  
13 court.  
14 Whether or not a particular person  
15 is in fact a class member is not within the  
16 scope of my retention. That is a legal

[REDACTED]

[REDACTED]

16 Q. Sticking then with the class definitions on  
 17 page 18, did you identify any persons who  
 18 meet any of the three proposed class  
 19 definitions?  
 20 A. No.  
 21 Q. So then it necessarily follows then, because  
 22 you didn't identify any people who met any of  
 23 the three proposed class definitions, you  
 24 didn't identify any bona fide class members

[REDACTED]

5 7.6 percent of the 500 sample  
 6 remained after my analysis, and those would  
 7 need additional investigation, because the  
 8 names that were identified as potential class  
 9 members, they would, those names are still  
 10 highly unreliable.

[REDACTED]

1 who you believe consented to receiving calls  
 2 from SNAP, is that right?  
 3 A. It's outside the scope. I wasn't asked to  
 4 determine legal consent, and your question  
 5 presupposes that I was.  
 6 Q. To be clear then, and we've covered this, but  
 7 to finish the point, you're not offering any  
 8 opinion as to whether any members of any of  
 9 the three proposed classes consented to  
 10 receiving a call, a text, or a prerecorded  
 11 message from SNAP, is that right?  
 12 A. Can you read that back to me please.  
 13 (Question read.)  
 14 A. Whether or not from a legal consent, I am not  
 15 providing any legal opinions.

[REDACTED]

[REDACTED]

[REDACTED]

22 Q. Right, because we would agree that if  
23 somebody is or was a SNAP customer, they  
24 necessarily don't meet any of the three class

1 definitions, right?  
2 **A. Right, and your very tools are pointing back**  
3 **to SNAP customer names.**  
4 Q. Okay, turning to paragraph 43 on page 19, and  
5 we addressed this generally.  
6 **A. I'm sorry, can you give me a chance to read**  
7 **it.**  
8 Q. Yeah, I'm bad at that, take as long as you  
9 need.  
10 We talked about this generally at  
11 the beginning, in terms of you're not  
12 offering an opinion on the publication  
13 aspect, but more specifically as it relates  
14 to your work in this case, did you issue any  
15 kind of press release in an effort to find  
16 potential class members?  
17 **A. No.**  
18 Q. Did you establish a website where people who  
19 received wrong number calls from SNAP could  
20 learn about whether they may be members of  
21 the proposed classes?  
22 **A. No.**  
23 Q. Did you do any kind of online advertising,  
24 looking for folks who may have received a

1 wrong number call from SNAP?  
2 **A. No.**  
3 Q. Are you familiar with advertising on  
4 Facebook, that it can be directed to  
5 particular telephone numbers?  
6 **A. No.**  
7 Q. So I'm presuming then, in this case, you  
8 didn't direct any advertising on Facebook to  
9 any of the 500 telephone numbers you sampled?  
10 **A. No.**  
11 Q. Did you call any of the 500 numbers you  
12 sampled?  
13 **A. No.**  
14 Q. Did you send text messages to any of the 500  
15 numbers you sampled?  
16 **A. No.**  
17 Q. Did you take any steps to allow potential  
18 class members to self-identify?  
19 **A. Well, if they wanted to call me, they**  
20 **could've. No.**  
21 Q. Did anyone call you?  
22 **A. No.**  
23 Q. All right, let's turn to paragraph 56, which  
24 is on pages 23 to 24.

[REDACTED]

[REDACTED]

- 1 Q. Yes, I think there's a distinction between  
 2 who gets direct mail class notice and who is  
 3 a bona fide class member, and we would agree  
 4 that those are two separate things, right?  
 5 **A. You know, who gets notice, who gets mail,**  
 6 **etcetera, the whole notice piece, that is not**  
 7 **what I am opining about.**  
 8 I am opining about whether or not  
 9 the methodology articulated by your expert  
 10 can identify any bona fide class members and  
 11 whether or not it's accurate.  
 12 And to the extent that it's  
 13 providing notice, direct notice, whether or  
 14 not it's actually going to provide notice to  
 15 real bona fide class members.  
 16 If it's based on highly inaccurate  
 17 and wrong data, that's going to give it names  
 18 of people who never got telephone calls, the  
 19 answer is, you can't identify the people and  
 20 you can't, your notice plan is going to not  
 21 notice the right people if you're using this  
 22 data that she has identified.  
 23 Q. Right. In that scenario, class members would  
 24 have to self-identify, in other words?

**1 A. Sure.**

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

19 Q. As part of the analysis you did in your  
20 declaration, are you presuming that the  
21 records that SNAP has on the outgoing calls  
22 it makes are accurate?

23 A. Yes.

24 Q. And are you presuming that the names that

1 SNAP has associated with its own customers  
2 are accurate?  
3 A. I'm presuming to use the list -- do I know  
4 whether or not Margaret Daley is listed as  
5 Peggy Daley, and which one is accurate?  
6 I mean, I'm presuming that the  
7 records that have been given to me, the  
8 business records are accurate in that they're  
9 the business records of the company.  
10 But I haven't undertaken any  
11 particular, any individualized investigation  
12 to make sure, I mean, they're business  
13 records, there are going to be errors in  
14 there.  
15 But I think, if they're business  
16 records, you can presume them to be accurate  
17 as contemporaneous records.